IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No. 18891 of 2004

Between:

N.S.Naik, S/o N.S.Roni Naik,aged 36 years, Conductor,E.No.405734, APSRTC, R/o Door No.7-2-428, Naik Nagar, Ananthapur, Anantapur District

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Ananthapur, Anantapur District
2 Deputy Chief Traffic Manager, A.P.S.R.T.C., Anantapur Region, Ananthapur, Anantapur District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction, more particularly one in the nature of Writ of Mandamus, declaring the Proceedings No.02/62 (139)/93-ATP dated 29-09-2004 of the 1st respondent No.Ty.19(128)2000-Dy.CTM.A, dated 22-09-2000 of the 2nd respondent as illegal, arbitrary, in violation of principles of natural justice and in violation of Articles 14 and 21 of the Constitution of India and consequently direct the respondents to add two annual increments to the pay of the Petitioner.

Counsel for the Petitioner: S.SURENDRA KUMAR

Counsel for the Respondents: MR.P.VINAYAKA SWAMY (SC FOR APSRTC)

The Court at the admission stage made the following:

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ORDER:

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The petitioner is working as a Conductor in the respondent Corporation. He was charged for an irregularity in collecting fare and issuing ticket to a lady passenger. He submitted his explanation. The 1st respondent passed an order on 29.09.1994, without conducting any enquiry, by imposing a penalty of deferment of annual increment for a period of
2 (two) years, which shall have effect on future increments of the petitioner.

2. The grievance of the petitioner is that since it is a major punishment, it cannot be maintained unless it is imposed after holding an enquiry and giving an opportunity to the petitioner. Therefore, he approached this Court through this writ petition to declare that the action of the 1st respondent is illegal and to direct the respondent to add the deferred increments.

3. It is well settled that denial of increments with cumulative effect tantamount to a major penalty, and such penalty cannot be imposed by the disciplinary authority without holding a regular departmental enquiry in terms of relevant service regulations.

4. Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of two annual increments with cumulative effect, imposed by the
1st respondent, can be reduced with slight modification. Therefore, the impugned order of punishment is modified as deferment of two annual increments without cumulative effect. The petitioner is not entitled for the difference of the amount if any by virtue of this Order, but he is entitled to get the increments on notional calculation from the date of this Order to which he is entitled.

5. The writ petition is, accordingly, disposed of. No costs.

dsr

ASSISTANT REGISTRAR

To:

1. The Depot Manager, APSRTC,

Anantapur, Anantapur District

2. The Deputy Chief Traffic Manager,

APSRTC, Anantapur Region,

Anantapur, Anantapur District

3. Two CD copies.